

ASSEMBLY, No. 4062

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 8, 2009

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington and Camden)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

SYNOPSIS

Establishes the "New Jersey Broadband and Electronic Health Information Network Authority."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/19/2009)

1 AN ACT establishing the "New Jersey Broadband and Electronic
2 Health Information Network Authority" and supplementing
3 P.L.2007, c.330 (C.26:1A-132 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. This act shall be known and may be cited as the "New Jersey
9 Broadband and Electronic Health Information Network Authority
10 Act."
11

12 2. The Legislature finds and declares that:

13 a. The use of broadband Internet service to access news and
14 information, exchange personal communication, conduct electronic
15 commerce, and interact with federal, state and local governmental
16 entities has greatly expanded in recent years;

17 b. In particular, the use of broadband Internet service to
18 implement an electronic health information network has been
19 shown to be an effective means of promoting a more affordable,
20 safe and accessible health care system by improving communication
21 among many different health care entities including, but not limited
22 to, hospitals, clinics, pharmacies, and health care professionals;

23 c. States such as Delaware and Kentucky have established
24 state-wide health information networks that have demonstrated the
25 feasibility of using such networks to facilitate the sharing of health
26 records and information among health care providers and to address
27 the needs of residents for timely, reliable, and relevant health care
28 information;

29 d. In other states such as Virginia, Wisconsin, Illinois and
30 Michigan, public authorities and commissions have been
31 established to oversee and promote the overall development of
32 broadband Internet service in their respective jurisdictions in order
33 to provide their residents with greater access to broadband services;

34 e. In recognition of the need for a State-wide electronic health
35 information network, and the growing importance of broadband
36 Internet service to the economic and social life of the residents of
37 this State, it is in the public interest to establish an independent
38 authority to promote the development of broadband infrastructure
39 projects, and to specifically oversee and develop a State-wide
40 electronic health information network utilizing the State's
41 broadband capacity and the bonding capacity of the authority as a
42 funding mechanism to expedite the development of such a network.
43

44 3. As used in this act:

45 "Authority" means the New Jersey Broadband and Electronic
46 Health Information Network Authority established pursuant to
47 section 4 of this act.

1 "Broadband developer" means a person selected by the authority
2 to acquire, construct, develop and create any part of a broadband
3 infrastructure project.

4 "Broadband infrastructure project" or "project" means all
5 facilities, hardware, and software, and other intellectual property
6 necessary to provide an electronic health information network, and
7 other broadband services in this State, including but not limited to,
8 voice, video and data.

9 "Broadband operator" means a person selected by the authority
10 to operate any part of a broadband infrastructure.

11 "Broadband services" means those services, including but not
12 limited to, voice, video and data, that provide capacity for
13 transmission of information at rates in excess of 200 kilobits per
14 second in at least one direction regardless of the technology or
15 medium used including wireless, copper wire, fiber optic cable, or
16 coaxial cable. If voice transmission capacity is offered in
17 conjunction with other services utilizing transmission at rates in
18 excess of 200 kilobits per second, the voice transmission capacity
19 rate may be less than 200 kilobits per second.

20 "Development costs" or "costs" means the costs associated with a
21 broadband infrastructure project that have been approved by the
22 authority including, but not limited to, the costs for planning,
23 acquiring, leasing, constructing, maintaining and operating a
24 broadband infrastructure project.

25 "Electronic health information network" means a system that
26 utilizes certain broadband services to provide a secure, integrated
27 method of storing, sending, and accessing health information,
28 records, and data to, and by, health care organizations, health care
29 professionals, public and private payers, and patients, and that links
30 together components of the health care delivery system in this State.

31 "Health care organization" means an organization located in this
32 State which is authorized or permitted by law, whether directly or
33 indirectly through a holding corporation, partnership or other entity,
34 to provide health care-related services, including, but not limited to,
35 hospital, outpatient, public health, home health care, residential
36 care, assisted living, hospice, health maintenance organization,
37 blood bank, alcohol or drug abuse, half-way house, diagnostic,
38 treatment, rehabilitation, extended care, skilled nursing care,
39 nursing care, intermediate care, tuberculosis care, chronic disease
40 care, maternity, mental health, boarding or sheltered care or day
41 care, services provided by a physician in his office, or any other
42 service offered in connection with health care services or by an
43 entity affiliated with a health care organization or an integrated
44 delivery system.

45 "Health insurance plan" means any hospital and medical expense
46 insurance policy; health, hospital or medical service corporation
47 contract or certificate; or health maintenance organization
48 subscriber contract or certificate or dental or vision plan.

1 4. a. There is hereby established in, but not of, the Department
2 of Health and Senior Services, a public body corporate and politic,
3 with corporate succession, to be known as the "New Jersey
4 Broadband and Electronic Health Information Network Authority."
5 The authority shall constitute a political subdivision of the State
6 established as an instrumentality exercising public and essential
7 governmental functions, and the exercise by the authority of the
8 powers conferred by this act shall be deemed and held to be an
9 essential governmental function.

10 b. The authority shall consist of 15 members as follows:

11 (1) the Commissioners of Health and Senior Services, Banking
12 and Insurance, and Human Services, the State Treasurer, and the
13 Chief Technology Officer of the New Jersey Office of Information
14 Technology, or their designees, who shall serve ex officio; and

15 (2) Ten public members with demonstrated professional
16 expertise, knowledge, and skill in the academic, business,
17 technology, and financial fields relating to the work of the
18 authority, including one member with expertise in electronic health
19 information technology, who shall be appointed by the Governor no
20 later than the 60th day after the effective date of this act, with the
21 advice and consent of the Senate.

22 The Governor shall designate a public member as chair of the
23 authority.

24 c. The public members shall serve for a term of five years;
25 except that, of the public members first appointed, five shall serve
26 for a term of three years, and five for a term of two years.
27 Vacancies in the membership of the authority shall be filled in the
28 same manner as the original appointments were made.

29 Any member of the authority appointed by the Governor may be
30 removed from office by the Governor for cause after a public
31 hearing.

32 d. The members of the authority shall serve without
33 compensation, but the authority may reimburse its members for
34 necessary expenses incurred in the discharge of their official duties.

35 e. The authority, upon the first appointment of its members and
36 thereafter on or after April 30 in each year, shall annually elect
37 from among its members a vice chairman who shall hold office
38 until April 30 next ensuing and shall continue to serve after the
39 expiration of the term of the vice-chairman's successor and until the
40 vice-chairman's successor shall have been appointed and qualified.
41 The authority may also appoint, retain and employ, without regard
42 to the provisions of Title 11A, Civil Service, of the New Jersey
43 Statutes, such officers, agents, and employees as it may require, and
44 it shall determine their qualifications, terms of office, duties,
45 services, and compensation.

46 f. The powers of the authority shall be vested in the members
47 thereof in office from time to time, and a majority of the total
48 authorized membership of the authority shall constitute a quorum at

1 any meeting thereof. Action may be taken and motions and
2 resolutions adopted by the authority at any meeting thereof by the
3 affirmative vote of a majority of the members present, unless in any
4 case the bylaws of the authority shall require a larger number. No
5 vacancy in the membership of the authority shall impair the right of
6 a quorum to exercise all the rights and perform all the duties of the
7 authority.

8 g. Each member and such person as may be designated by the
9 authority as its chief financial officer, shall execute a bond to be
10 conditioned upon the faithful performance of the duties of such
11 member or officer, as the case may be, in such form and amount as
12 may be prescribed by the Attorney General. Such bonds shall be
13 filed in the office of the Secretary of State. At all times thereafter
14 the members and the chief financial officer, if any, of the authority
15 shall maintain such bonds in full force and effect. All costs of such
16 bonds shall be borne by the authority.

17 h. No trustee, director, officer or employee of a health care
18 organization may serve as a member of the authority.

19 i. At least two true copies of the minutes of every meeting of
20 the authority shall be forthwith delivered by and under the
21 certification of the secretary thereof, to the Governor. No action
22 taken at such meeting by the authority shall have force or effect
23 until 10 days, exclusive of Saturdays, Sundays and public holidays,
24 after such copies of the minutes shall have been so delivered or at
25 such earlier time as the Governor shall sign a statement of approval
26 thereof. If, in the 10-day period, the Governor returns a copy of the
27 minutes with veto of any action taken by the authority or any
28 member thereof at such meeting, such action shall be null and of no
29 effect. If the Governor shall not return the minutes within the 10-
30 day period, any action therein recited shall have force and effect
31 according to the wording thereof. At any time prior to the
32 expiration of the 10-day period, the Governor may sign a statement
33 of approval of each, or any such action of the authority.

34 The powers conferred in this subsection upon the Governor shall
35 be exercised with due regard for the rights of the holders of bonds
36 of the authority at any time outstanding.

37

38 5. The authority shall have power:

39 a. To adopt bylaws for the regulation of its affairs and the
40 conduct of its business and to alter and revise such bylaws from
41 time to time at its discretion.

42 b. To adopt and have an official seal and alter the same at
43 pleasure.

44 c. To maintain an office at such place or places within the State
45 as it may designate.

46 d. To sue and be sued in its own name.

47 e. To borrow money and to issue bonds and notes to fund the
48 operations of the authority, to finance or refinance part or all of the

1 development costs of broadband infrastructure projects including,
2 but not limited to, a State-wide electronic health information
3 network, and the provision of broadband Internet services to
4 residential, commercial, public and nonprofit customers in this
5 State, to refinance existing debt for technology that constitutes a
6 part of or is related to broadband infrastructure projects, and to
7 secure bonds and notes by mortgage, assignment, or pledge of any
8 of its revenues and assets.

9 f. To make loans and to enter into partnership arrangements
10 with broadband developers and broadband operators in order to
11 acquire, construct, maintain, and operate all or portions of
12 broadband infrastructure projects.

13 g. To set construction, operation, and financing standards for
14 broadband infrastructure projects in connection with authority
15 financing and to provide for inspections to determine compliance
16 with those standards.

17 h. To oversee the development of a State-wide electronic health
18 information network in order to ensure that the network is designed
19 to:

20 (1) promote more efficient and effective communication among
21 multiple health care providers including, but not limited to,
22 hospitals, physicians, payers, employers, pharmacies, laboratories,
23 and other health care entities;

24 (2) create efficiencies in the provision of health care by
25 eliminating redundancy in data capture and storage, and reduce
26 administrative, billing and data collection costs;

27 (3) create the ability to monitor community health status; and

28 (4) provide reliable information to health care consumers and
29 purchasers regarding the quality and cost-effectiveness of health
30 care, health insurance plans, and health care providers including,
31 but not limited to, health care professionals, hospitals, nursing
32 homes and other health care facilities.

33 i. To acquire in the name of the authority by purchase or
34 otherwise, on such terms and conditions and in such manner as it
35 may deem proper, any land or interest therein and other property
36 which it may determine is reasonably necessary for any broadband
37 infrastructure project; and to hold and use the same and to sell,
38 convey, lease or otherwise dispose of property so acquired, that is
39 no longer necessary for the authority's purposes, for fair
40 consideration after public notice.

41 j. To receive and accept, from any federal or other public
42 agency or governmental entity, grants or loans for, or in aid of, the
43 acquisition or construction of any broadband infrastructure project,
44 and to receive and accept aid or contributions from any other
45 source, of either money, property, labor, or other things of value, to
46 be held, used and applied only for the purposes for which such
47 grants, loans and contributions may be made.

1 k. To prepare or cause to be prepared plans, specifications,
2 designs, and estimates of costs of the broadband infrastructure
3 projects, and of the technology that constitutes a part of or is related
4 to such projects, and for the construction of such projects under the
5 provisions of this act, and from time to time to modify such plans,
6 specifications, designs, or estimates.

7 l. By contract or contracts with and for broadband developers
8 only, to construct, acquire, reconstruct, rehabilitate and improve,
9 and furnish and equip broadband infrastructure projects. The
10 authority, in the exercise of its authority to make and enter into
11 contracts and agreements necessary or incidental to the performance
12 of its duties and the execution of its powers, shall adopt standing
13 rules and procedures providing that, except as hereinafter provided,
14 no contract on behalf of the authority shall be entered into for the
15 doing of any work, or for the hiring of equipment or vehicles, under
16 which the sum to be expended exceeds the adjusted amount
17 determined by the Governor as provided in subsection j. of section
18 5 of P.L.1972, c.29 (C.26:2I-5) with respect to contracts of the New
19 Jersey Health Care Financing Authority, unless the authority shall
20 first publicly advertise for bids therefor, and shall award the
21 contract to the lowest responsible bidder; provided, however, that
22 such advertising shall not be required if the contract to be entered
23 into is one for the furnishing or performing of services of a
24 professional nature or for the supplying of any product or the
25 rendering of any service by a public utility subject to the
26 jurisdiction of the Board of Public Utilities, and tariffs and
27 schedules of the charges, made, charged, or exacted by the public
28 utility for any such products to be supplied or services to be
29 rendered, are filed with the board.

30 m. To determine the location and character of any broadband
31 infrastructure project to be undertaken, subject to the provisions of
32 this act, and subject to State health and environmental laws, to
33 construct, reconstruct, maintain, repair, lease as lessee or lessor, and
34 regulate the same and operate the same in the event of default by a
35 broadband operator of its obligations and agreements with the
36 authority; to enter into contracts for any or all such purposes; and to
37 enter into contracts for the management and operation of a
38 broadband infrastructure project in the event of default as herein
39 provided. The authority shall use its best efforts to conclude its
40 position as an operator as herein provided as soon as is practicable.

41 n. To establish rules and regulations for the use of a broadband
42 infrastructure project or any portion thereof and to designate a
43 health care organization as its agent to establish rules and
44 regulations for the use of a project undertaken by such a health care
45 organization.

46 o. Generally to fix and revise, from time to time, and to charge
47 and collect rates, rents, fees and other charges for the use of, and for
48 the services furnished or to be furnished by, those portions of a

1 broadband infrastructure project financed by the authority pursuant
2 to this act, and to contract with holders of its bonds and with any
3 other person, party, association, corporation or other body, public or
4 private, in respect thereof.

5 p. To enter into agreements, credit agreements or contracts,
6 execute any and all instruments, and do and perform any and all
7 acts or things necessary, convenient or desirable for the purposes of
8 the authority or to carry out any power expressly given in this act.

9 q. To invest any moneys held in reserve or sinking funds, or
10 any moneys not required for immediate use or disbursement, at the
11 discretion of the authority, in such obligations as are authorized by
12 resolution of the authority.

13 r. To obtain, or aid in obtaining, from any department or
14 agency of the United States any insurance or guarantee as to, or of,
15 or for the payment or repayment of interest or principal, or both, or
16 any part thereof, on any loan or any instrument evidencing or
17 securing the same, made or entered into pursuant to the provisions
18 of this act; and notwithstanding any other provisions of this act, to
19 enter into agreement, contract or any other instrument whatsoever
20 with respect to any such insurance or guarantee, and accept
21 payment in such manner and form as provided therein in the event
22 of default by the borrower.

23 s. To obtain from any department or agency of the United
24 States or a private insurance company any insurance or guarantee as
25 to, or of, or for the payment or repayment of interest or principal, or
26 both, or any part thereof, on any bonds issued by the authority
27 pursuant to the provisions of this act; and notwithstanding any other
28 provisions of this act, to enter into any agreement, contract or any
29 other instrument whatsoever with respect to any such insurance or
30 guarantee, except to the extent that such action would in any way
31 impair or interfere with the authority's ability to perform and fulfill
32 the terms of any agreement made with the holders of the bonds of
33 the authority.

34 t. To receive and accept, from any department or agency of the
35 United States or of the State or from any other entity, any grant,
36 appropriation or other moneys to be used for or applied to any
37 corporate purpose of the authority, including without limitation the
38 meeting of debt service obligations of the authority in respect of its
39 bonds.

40 u. To develop or design other initiatives in furtherance of its
41 purposes.

42 v. To report and make recommendations to the New Jersey
43 Health Information Technology Commission established pursuant
44 to section 5 of P.L.2007, c.330 (C.26:1A-136).

45 w. To perform any and all other activities in furtherance of the
46 purposes of the authority.

1 6. a. Each worker employed in the construction or
2 rehabilitation of any broadband infrastructure project undertaken in
3 connection with loans, loan guarantees, expenditures, investments,
4 tax exemptions or other incentives or financial assistance approved,
5 provided, authorized, facilitated, or administered by the authority,
6 or undertaken to fulfill any condition of receiving any of the
7 incentives or financial assistance, shall be paid not less than the
8 prevailing wage rate for the worker's craft or trade, as determined
9 by the Commissioner of Labor and Workforce Development
10 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

11 b. The Commissioner of Labor and Workforce Development
12 shall determine the prevailing wage rate in the locality in which the
13 construction or rehabilitation is to be performed for each craft, trade
14 or classification of worker employed in the construction or
15 rehabilitation, as if the construction or rehabilitation is "public
16 work" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

17 c. For the purpose of implementing the provisions of this
18 section, the Commissioner of Labor and Workforce Development
19 shall, and a worker employed in the performance of work subject to
20 this act or the employer or any designated representative of the
21 worker may, exercise all rights, powers or duties granted or
22 imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

23 d. The authority shall, in consultation with the Commissioner
24 of Labor and Workforce Development, adopt rules and regulations,
25 consistent with the rules and regulations adopted by the
26 Commissioner of Labor and Workforce Development pursuant to
27 P.L.1963, c.150 (C.34:11-56.25 et seq.), requiring that not less than
28 the prevailing wage be paid to workers employed in the
29 construction or rehabilitation of projects undertaken in connection
30 with loans, loan guarantees, expenditures, investments, incentives,
31 or other financial assistance provided, authorized or administered
32 by the authority. The prevailing wage rate shall be the rate
33 determined by the Commissioner of Labor and Workforce
34 Development pursuant to the provisions of P.L.1963, c.150
35 (C.34:11-56.25 et seq.).

36

37 7. a. The authority is authorized from time to time to issue its
38 bonds for any corporate purpose and to fund and refund the same all
39 as provided in this act. Such bonds may, at the discretion of the
40 authority, be designated as "bonds," "notes," "bond anticipation
41 notes," or otherwise.

42 b. Except as may otherwise be expressly provided by the
43 authority, every issue of authority bonds shall be general
44 obligations of the authority payable from any revenues or moneys
45 of the authority, subject only to any agreements with the holders of
46 particular bonds pledging any particular revenues or moneys.
47 Notwithstanding that bonds may be payable from a special fund,
48 they shall be fully negotiable within the meaning of Title 12A, the

1 Uniform Commercial Code, of the New Jersey Statutes, subject
2 only to any provisions of the bonds for registration.

3 c. The bonds may be issued as serial bonds or as term bonds, or
4 the authority, in its discretion, may issue bonds of both types. The
5 bonds shall be authorized by resolution of the members of the
6 authority and shall bear such date or dates, mature at such time or
7 times, not exceeding 50 years from their respective dates, bear
8 interest at such rate or rates, be payable at such time or times, be in
9 such denominations, be in such form, either coupon or registered,
10 carry such registration privileges, be executed in such manner, be
11 payable in lawful money of the United States of America at such
12 place or places, and be subject to such terms of redemption, as such
13 resolution or resolutions may provide. The bonds may be sold at
14 public or private sale for such price or prices as the authority shall
15 determine. Pending preparation of the definitive bonds, the
16 authority may issue interim receipts or certificates which shall be
17 exchanged for such definitive bonds.

18 d. Any resolution or resolutions authorizing any bonds or any
19 issue of bonds may contain provisions, which shall be a part of the
20 contract with the holders of the bonds to be authorized, as to:

21 (1) pledging all or any part of the revenues of a broadband
22 infrastructure project or any revenue producing contract or contracts
23 made by the authority with any individual, partnership, corporation
24 or association or other body, public or private, to secure the
25 payment of the bonds or of any particular issue of bonds, subject to
26 such agreements with bondholders as may then exist;

27 (2) the rentals, fees and other charges to be charged, and the
28 amounts to be raised in each year thereby, and the use and
29 disposition of the revenues;

30 (3) the setting aside of reserves or sinking funds, and the
31 regulation and disposition thereof;

32 (4) the limitations on the right of the authority or its agent to
33 restrict and regulate the use of a project;

34 (5) the limitations on the purpose to which the proceeds of sale
35 of any issue of bonds then or thereafter to be issued may be applied
36 and pledging such proceeds to secure the payment of the bonds or
37 any issue of the bonds;

38 (6) the limitations on the issuance of additional bonds, the terms
39 upon which additional bonds may be issued and secured and the
40 refunding of outstanding bonds;

41 (7) the procedure, if any, by which the terms of any contract
42 with bondholders may be amended or abrogated, the amount of
43 bonds the holders of which must consent thereto, and the manner in
44 which such consent may be given;

45 (8) limitations on the amount of moneys derived from a project
46 to be expended for operating, administrative or other expenses of
47 the authority; and

1 (9) defining the acts or omissions to act which shall constitute a
2 default in the duties of the authority to holders of its obligations and
3 providing the rights and remedies of such holders in the event of a
4 default.

5 e. Neither the members of the authority nor any person
6 executing the bonds shall be liable personally on the bonds or be
7 subject to any personal liability or accountability by reason of the
8 issuance thereof.

9 f. The authority shall have power out of any funds available
10 therefor to purchase its bonds. The authority may hold, pledge,
11 cancel or resell such bonds, subject to and in accordance with
12 agreements with bondholders.

13
14 8. In the discretion of the authority, any bonds issued under the
15 provisions of this act may be secured by a trust agreement by and
16 between the authority and a corporate trustee or trustees, which may
17 be any trust company or bank having the powers of a trust company
18 within or without the State. Such trust agreement or the resolution
19 providing for the issuance of such bonds may pledge or assign the
20 revenues or other moneys or securities to be received or proceeds of
21 any contract or contracts pledged. Such trust agreement or
22 resolution providing for the issuance of such bonds may contain
23 such provisions for protecting and enforcing the rights and remedies
24 of the bondholders as may be reasonable and proper and not in
25 violation of law, including particularly such provisions as have
26 hereinabove been specifically authorized to be included in any
27 resolution or resolutions of the authority authorizing bonds thereof.
28 Any bank or trust company incorporated under the laws of this State
29 which may act as depositary of the proceeds of bonds or revenues or
30 other moneys or securities may furnish such indemnifying bonds or
31 pledge such securities as may be required by the authority. Any
32 such trust agreement may set forth the rights and remedies of the
33 bondholders and of the trustee or trustees, and may restrict the
34 individual right of action by bondholders. In addition to the
35 foregoing, any such trust agreement or resolution may contain such
36 other provisions as the authority may deem reasonable and proper
37 for the security of the bondholders. All expenses incurred in
38 carrying out the provisions of such trust agreement or resolution
39 may be treated as project costs.

40
41 9. Bonds issued under the provisions of this act shall not be
42 deemed to constitute a debt or liability of the State or of any
43 political subdivision thereof other than the authority, nor a pledge
44 of the faith and credit of the State or of any such political
45 subdivision, other than the authority, but shall be payable solely
46 from the funds herein provided. All such bonds shall contain on the
47 face thereof a statement to the effect that neither the State of New
48 Jersey nor the authority shall be obligated to pay the same or the

1 interest thereon except from revenues or other moneys of the
2 authority and that neither the faith and credit nor the taxing power
3 of the State of New Jersey or of any political subdivision thereof
4 other than the authority is pledged to the payment of the principal of
5 or the interest on such bonds. The issuance of bonds under the
6 provisions of this act shall not directly or indirectly or contingently
7 obligate the State or any political subdivision thereof to levy or to
8 pledge any form of taxation whatever therefor.

9
10 10. The authority is authorized to fix, revise, charge and collect
11 rates, rents, fees and charges for the use of and for the services
12 furnished or to be furnished by each broadband infrastructure
13 project and to contract with any person, partnership, association or
14 corporation, or other body, public or private, in respect thereof.
15 Such rates, rents, fees and charges shall be fixed and adjusted in
16 respect of the aggregate of rents, rates, fees and charges from such
17 project so as to provide funds sufficient with other revenues or
18 moneys, if any:

19 a. To pay the cost of maintaining, repairing and operating the
20 project and each and every portion thereof, to the extent that the
21 payment of such cost has not otherwise been adequately provided
22 for;

23 b. To pay the principal of, and the interest on, outstanding
24 bonds of the authority issued in respect of such project as the same
25 shall become due and payable; and

26 c. To create and maintain reserves required or provided for in
27 any resolution authorizing, or trust agreement securing, such bonds
28 of the authority.

29 Such rates, rents, fees and charges shall not be subject to
30 supervision or regulation by any department, commission, board,
31 body, bureau or agency of this State other than the authority. A
32 sufficient amount of the revenues derived in respect of a project,
33 except such part of such revenues as may be necessary to pay the
34 cost of maintenance, repair and operation and to provide reserves
35 for renewals, replacements, extensions, enlargements and
36 improvements as may be provided for in the resolution authorizing
37 the issuance of any bonds of the authority or in the trust agreement
38 securing the same, shall be set aside at such regular intervals as may
39 be provided in such resolution or trust agreement in a sinking or
40 other similar fund which is hereby pledged to, and charged with, the
41 payment of the principal of, and the interest on, such bonds as the
42 same shall become due, and the redemption price or the purchase
43 price of bonds retired by call or purchase as therein provided. Such
44 pledge shall be valid and binding from the time when the pledge is
45 made; the rates, rents, fees and charges and other revenues or other
46 moneys or securities so pledged and thereafter received by the
47 authority shall immediately be subject to the lien of such pledge
48 without any physical delivery thereof or further act, and the lien of

1 any such pledge shall be valid and binding as against all parties
2 having claims of any kind in tort, contract or otherwise against the
3 authority, irrespective of whether such parties have notice thereof.
4 Neither the resolution nor any trust agreement by which a pledge is
5 created need be filed or recorded except in the records of the
6 authority. The use and disposition of moneys to the credit of such
7 sinking or other similar fund shall be subject to the provisions of
8 the resolution authorizing the issuance of such bonds or of such
9 trust agreement. Except as may otherwise be provided in such
10 resolution or such trust agreement, such sinking or other similar
11 fund shall be a fund for all such bonds issued to finance projects of
12 a health care organization without distinction or priority of one over
13 another; provided the authority in any such resolution or trust
14 agreement may provide that such sinking or other similar fund shall
15 be the fund for a particular project at a health care organization and
16 for the bonds issued to finance a particular project and may,
17 additionally, permit and provide for the issuance of bonds having a
18 subordinate lien in respect of the security herein authorized to other
19 bonds of the authority and, in such case, the authority may create
20 separate sinking or other similar funds in respect to such
21 subordinate lien bonds.

22

23 11. All moneys received by the authority pursuant to this act,
24 whether as proceeds from the sale of bonds or as revenues, shall be
25 deemed to be trust funds to be held and applied solely as provided
26 in this act. Any officer with whom, or any bank or trust company
27 with which, such moneys shall be deposited shall act as trustee of
28 such moneys and shall hold and apply the same for the purposes
29 hereof, subject to such regulations as this act and the resolution
30 authorizing the bonds of any issue or the trust agreement securing
31 such bonds may provide.

32

33 12. Any holder of bonds issued under the provisions of this act
34 or any of the coupons appertaining thereto, and the trustee or
35 trustees under any trust agreement, except to the extent the rights
36 herein given may be restricted by any resolution authorizing the
37 issuance of, or any such trust agreement securing, such bonds, may,
38 either at law or in equity, by suit, action, proceeding in lieu of
39 prerogative writ, or other proceedings, protect and enforce any and
40 all rights under the laws of the State or granted hereunder or under
41 such resolution or trust agreement, and may enforce and compel the
42 performance of all duties required by this act or by such resolution
43 or trust agreement to be performed by the authority or by any
44 officer, employee or agent thereof, including the fixing, charging
45 and collecting of the rates, rents, fees, and charges herein
46 authorized and required by the provisions of such resolution or trust
47 agreement to be fixed, established, and collected.

1 13. a. The authority is hereby authorized to provide for the
2 issuance of bonds of the authority for the purpose of refunding any
3 bonds of the authority then outstanding, including the payment of
4 any redemption premium thereon and any interest accrued or to
5 accrue to the earliest or subsequent date of redemption, purchase or
6 maturity of such bonds, and, if deemed advisable by the authority,
7 for the additional purpose of paying all or any part of the cost of
8 constructing and acquiring additions, improvements, extensions or
9 enlargements of a project or any portion thereof and for making
10 payments to reserve funds therefor.

11 b. The proceeds of any such bonds issued for the purpose of
12 refunding outstanding bonds may, in the discretion of the authority,
13 be applied to the purchase or retirement at maturity or redemption
14 of such outstanding bonds either on their earliest or any subsequent
15 redemption date or upon the purchase or at the maturity thereof and
16 may, pending such application, be placed in escrow to be applied to
17 such purchase or retirement at maturity or redemption on such date
18 as may be determined by the authority.

19 c. Any such escrowed proceeds, pending such use, may be
20 invested and reinvested as permitted by the applicable resolution or
21 trust agreement. The interest, income and profits, if any, earned or
22 realized on any such investment may also be applied to the payment
23 of outstanding bonds to be refunded. After the terms of the escrow
24 have been fully satisfied and carried out, any balance of such
25 proceeds and interest, income and profits, if any, earned or realized
26 on the investments thereof may be returned to the authority for use
27 by it in any lawful manner.

28 d. All such bonds shall be subject to the provisions of this act
29 in the same manner and to the same extent as other bonds issued
30 pursuant to this act.

31

32 14. Bonds and notes issued by the authority under the provisions
33 of this act are hereby made securities in which the State and all
34 political subdivisions of the State, their officers, boards,
35 commissions, departments or other agencies, all banks, bankers,
36 savings banks, trust companies, savings and loan associations,
37 investment companies and other persons carrying on a banking
38 business, all insurance companies, insurance associations, and other
39 persons carrying on an insurance business, and all administrators,
40 executors, guardians, trustees and other fiduciaries, and all other
41 persons whatsoever who now are or may hereafter be authorized to
42 invest in bonds or other obligations of the State, may properly and
43 legally invest any funds, including capital belonging to them or
44 within their control; and said bonds, notes or other securities or
45 obligations are hereby made securities which may properly and
46 legally be deposited with and received by any State or municipal
47 officers or agency of the State for any purpose for which the deposit

1 of bonds or other obligations of the State is now or may hereafter be
2 authorized by law.

3

4 15. Bonds may be issued under the provisions of this act without
5 obtaining the consent of any department, division, commission,
6 board, bureau, agency or officer of the State, and without any other
7 proceedings or the happening of any other conditions or things than
8 those proceedings, conditions and things which are specifically
9 required by this act.

10

11 16. The exercise of the powers granted by the this act will be in
12 all respects for the benefit of the people of this State, for the
13 increase of their commerce, welfare and prosperity, and for the
14 improvement of their health and living conditions, and as the
15 operation and maintenance of a project by the authority or its agent
16 will constitute the performance of an essential public function,
17 neither the authority nor its agent shall be required to pay any taxes
18 or assessments upon or in respect of a project or any property
19 acquired or used by the authority or its agent under the provisions
20 of this act or upon the income therefrom, and any bonds issued
21 under the provisions of this act, their transfer and the income
22 therefrom, including any profit made on the sale thereof, shall at all
23 times be exempt from taxation except for transfer, inheritance and
24 estate taxes.

25

26 17. The State of New Jersey does pledge to and agree with the
27 holders of the bonds issued pursuant to the authority contained in
28 this act, and with those parties who may enter into contracts with
29 the authority pursuant to the provisions of this act, that the State
30 will not limit, alter or restrict the rights hereby vested in the
31 authority and the health care organization to maintain, construct,
32 reconstruct and operate any project as defined in this act or to
33 establish and collect such rents, fees, receipts or other charges as
34 may be convenient or necessary to produce sufficient revenues to
35 meet the expenses of maintenance and operation thereof and to
36 fulfill the terms of any agreements made with the holders of bonds
37 authorized by this act, and with the parties who may enter into
38 contracts with the authority pursuant to the provisions of this act, or
39 in any way impair the rights or remedies of the holders of such
40 bonds or such parties until the bonds, together with interest thereon,
41 are fully paid and discharged and such contracts are fully performed
42 on the part of the authority. The authority as a public body
43 corporate and politic shall have the right to include the pledge
44 herein made in its bonds and contracts.

45

46 18. On or before March 31 in each year, the authority shall make
47 an annual report of its activities for the preceding calendar year to
48 the Governor and pursuant to P.L.1991, c.164 (C.52:14-19.1), to the

1 Legislature. Each such report shall set forth a complete operating
2 and financial statement covering the authority's operations during
3 the year. The authority shall cause an audit of its books and
4 accounts to be made at least once in each year by certified public
5 accountants and cause a copy thereof to be filed with the Secretary
6 of State and the State Comptroller.

7
8 19. Except as otherwise expressly provided in this act, any
9 member, officer, agent, or employee of the authority, or member of
10 the immediate family thereof, who has an interest, either directly or
11 indirectly, in any contract or transaction of another with the
12 authority, or in the purchase, sale or lease of any property, either
13 real or personal, to or from the authority, shall be guilty of a crime
14 of the fourth degree.

15
16 20. The State Comptroller and the Comptroller's legally
17 authorized representatives are hereby authorized and empowered
18 from time to time to examine the accounts, books and records of the
19 authority, including its receipts, disbursements, contracts, sinking
20 funds, investments and any other matters relating thereto and to its
21 financial standing.

22
23 21. The authority shall be entitled to call to its assistance and
24 avail itself of the services of such employees of any State
25 department or agency as it may require and as may be available to it
26 for said purpose.

27
28 22. This act shall be liberally construed to effect the purpose
29 thereof.

30
31 23. Nothing contained in this act shall be deemed or construed
32 to create or constitute a debt, liability, or a loan or pledge of the
33 credit, of the State.

34
35 24. The foregoing sections of this act shall be deemed to provide
36 an additional and alternative method for the doing of the things
37 authorized thereby, and shall be regarded as supplemental and
38 additional to powers conferred by other laws, and shall not be
39 regarded as in derogation of any powers now existing; provided,
40 however, that the issuance of bonds or refunding bonds under the
41 provisions of this act need not comply with the requirements of any
42 other law applicable to the issuance of bonds

43
44 25. All laws, or parts thereof, inconsistent with this act are
45 hereby declared to be inapplicable to the provisions of this act,
46 except as otherwise provided.

1 26. The provisions of this act shall be severable, and if any of its
2 provisions shall be held to be unconstitutional or otherwise invalid,
3 the decision of the court shall not affect the validity of any of the
4 remaining provisions of this act.

5

6 27. This act shall take effect immediately.

7

8

9

STATEMENT

10

11 This bill establishes the “New Jersey Broadband and Electronic
12 Health Information Network Authority” (the “authority”) consisting
13 of 15 members including the Commissioners of Health and Senior
14 Services, Banking and Insurance, and Human Services, the State
15 Treasurer, and the Chief Technology Officer of the New Jersey
16 Office of Information Technology, or their designees, who shall
17 serve ex officio, and 10 public members with knowledge, skill and
18 experience in academic, business, technology, or financial fields
19 relating to the work of the authority, who shall be appointed by the
20 Governor with the advice and consent of the Senate.

21 The authority is established to promote the general development
22 of broadband Internet services and broadband infrastructure in the
23 State with specific emphasis on the development, operation and
24 maintenance of a State-wide electronic health information network.
25 The bill authorizes the authority to issue bonds and notes to finance
26 or refinance all or part of the development of the authority’s
27 operations and projects. The bill further provides that the bonds or
28 notes issued by the authority shall not be a debt or liability of the
29 State.

30 The bill also authorizes the authority to impose and collect rates,
31 rents, charges, and fees for the services furnished by those portions
32 of the broadband infrastructure projects financed by the authority,
33 in conjunction with any financing that may be issued by the
34 authority.

35 The bill further provides that the authority, in connection with its
36 development of a State-wide electronic health information network,
37 shall be responsible for overseeing the development of the network
38 in such a way as to ensure that the network is designed to:

39 (1) promote more efficient and effective communication among
40 multiple health care providers including, but not limited to,
41 hospitals, physicians, payers, employers, pharmacies, laboratories,
42 and other health care entities;

43 (2) create efficiencies in the provision of health care by
44 eliminating redundancy in data capture and storage, and reduce
45 administrative, billing and data collection costs;

46 (3) create the ability to monitor community health status; and

1 (4) provide reliable information to health care consumers and
2 purchasers regarding the quality and cost-effectiveness of health
3 care, health plans, and health care providers.

4 The authority is required to report and make recommendations to
5 the New Jersey Health Information Technology Commission
6 established pursuant to section 5 of P.L.2007, c.330 (C.26:1A-136)
7 with regard to the development of a State-wide health information
8 network.